

IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
WESTERN DIVISION

UNITED STATES OF AMERICA,)
Plaintiff,)
v.)
ISMAEL ALDANA MORALEZ)
and)
JESUS APOLONIO ALCANTARA-FUENTES,)
Defendants.)
Criminal Action No.
12-00100-01-05-CR-W-HFS

**MEMORANDUM OF MATTERS DISCUSSED AND
ACTION TAKEN AT PRETRIAL CONFERENCE**

Pursuant to the order of the Court en banc of the United States District Court for the Western District of Missouri, a pretrial conference was held in the above-entitled cause before me on May 23, 2014. Defendant Ismael Aldana Moralez appeared in person and with appointed counsel Angela Williams. Defendant Jesus Apolonio Alcantara-Fuentes appeared in person and with appointed counsel Christopher Angles. The United States of America appeared by Assistant United States Attorney Rudolph Rhodes.

I. BACKGROUND

On November 8, 2012, a superseding indictment was returned charging defendant Ismael Aldana Moralez with one count of conspiracy to possess with intent to distribute and to distribute methamphetamine and cocaine, in violation of 21 U.S.C. § 846; one count of possession with intent to distribute methamphetamine, in violation of 21 U.S.C. §§ 841(a)(1) and (b)(1)(A); 11 counts of distributing cocaine, in violation of 21 U.S.C. §§ 841(a)(1) and (b)(1)(C); one count of possessing ammunition while in the United States illegally, in violation of 18 U.S.C. §§ 922(g)(5) and 924(a)(2); one count of improper entry by an alien, in violation of 8 U.S.C. § 1325(a); one count of using a telephone to facilitate a drug felony, in violation of 21 U.S.C. §§ 843(b) and (d)(1); and two counts of money laundering, in violation of 18 U.S.C. §

1956(a)(2)(B)(i). The superseding indictment charges defendant Jesus Apolonio Alcantara-Fuentes with one count of conspiracy to possess with intent to distribute and to distribute methamphetamine and cocaine, in violation of 21 U.S.C. § 846; and one count of possession with intent to distribute methamphetamine, in violation of 21 U.S.C. §§ 841(a)(1) and (b)(1)(A).

Co-defendant Jose Octavio Franco Ortega has a change-of-plea hearing set for May 30, 2014.

Co-defendant Ronny A. Mazariegos pled guilty on June 18, 2013.

Co-defendant Emilio Estrada Rodriguez was sentenced on March 7, 2013.

Co-defendant Alfredo Jesus Chavez Portillo has a change-of-plea hearing set for May 30, 2014.

Co-defendant Agustin Aj Ixcoy pled guilty on June 27, 2013.

The following matters were discussed and action taken during the pretrial conference:

II. TRIAL COUNSEL

Mr. Rhodes announced that he and Brent Venneman will be the trial counsel for the government. The case agents to be seated at counsel table are James Taylor and Brian Psenak, Homeland Security.

Ms. Williams announced that she will be the trial counsel for defendant Ismael Aldana Moralez. Shauna McRoberts will assist as second chair.

Mr. Angles announced that he will be the trial counsel for defendant Jesus Apolonio Alcantara-Fuentes. Brian Palmer will assist as second chair.

III. OUTSTANDING MOTIONS

The following motions are pending for ruling by the district judge:

1. Motion for writ of habeas corpus ad testificandum, filed by defendant Jesus Apolonio Alcantara-Fuentes on June 30, 2013 (#128).

2. Motion for writ of habeas corpus ad testificandum, filed by defendant Jesus Apolonio Alcantara-Fuentes on December 26, 2013 (#173)

3. Motion to declare the case complex, filed by defendant Jesus Apolonio Alcantara-Fuentes on December 26, 2013 (#174).

4. Motion in limine to exclude drug dog alert evidence, filed by defendant Jesus Apolonio Alcantara-Fuentes on May 21, 2014 (#206).

IV. *TRIAL WITNESSES*

Mr. Rhodes announced that the government intends to call 25 witnesses without stipulations or 18 witnesses with stipulations during the trial.

Ms. Williams announced that defendant Ismael Aldana Moralez intends to call no witnesses during the trial. The defendant may testify.

Mr. Angles announced that defendant Jesus Apolonio Alcantara-Fuentes intends to call 3 witnesses during the trial. The defendant may testify.

V. *TRIAL EXHIBITS*

Mr. Rhodes announced that the government will offer approximately 125 exhibits in evidence during the trial.

Ms. Williams announced that defendant Ismael Aldana Moralez will offer approximately 2 exhibits in evidence during the trial.

Mr. Angles announced that defendant Jesus Apolonio Alcantara-Fuentes intends to offer approximately 4 exhibits in evidence during the trial.

VI. *DEFENSES*

Ms. Williams announced that defendant Ismael Aldana Moralez will rely on the defense of general denial.

Mr. Angles announced that defendant Jesus Apolonio Alcantara-Fuentes will rely on the defense of general denial.

VII. POSSIBLE DISPOSITION

Ms. Williams stated this case is definitely for trial.

Mr. Angles stated this case is definitely for trial.

VIII. STIPULATIONS

Stipulations are likely as to chain of custody, chemist's reports, interstate nexus of firearm, and wiretap evidence.

IX. TRIAL TIME

Counsel were in agreement that this case will take 4 to 5 days to try.

X. EXHIBIT LIST, VOIR DIRE AND INSTRUCTIONS

The U. S. Magistrate Judge ordered:

That, in addition to the requirements of the Stipulations and Orders filed February 13, 2013, counsel for each party file and serve a list of exhibits he or she intends to offer in evidence at the trial of this case on the form entitled Exhibit Index and have all available exhibits premarked using the stickers provided by the Clerk of Court by May 23, 2014;

That counsel for each party file and serve requested jury voir dire examination questions by or before noon, Wednesday, June 4, 2014;

That counsel for each party file and serve, in accordance with the requirements of Local Rule 51.1, requested jury instructions¹ by or before noon, Wednesday, June 4, 2014. Counsel are requested to provide proposed jury instructions in both hard copy form, as required by Local Rule 51.1, and by e-mail to the trial judge's courtroom deputy.

XI. UNUSUAL QUESTIONS OF LAW

Motions in limine on the following issues will probably be filed: Motion to redact transcripts, motion to designate witness as expert in coded language.

¹Counsel in all cases assigned to be tried before Chief Judge Fernando Gaitan, Jr., as reflected in the forthcoming trial letter, shall meet and prepare a packet of agreed proposed jury instructions to be submitted to Judge Gaitan and e-mailed to marylynn_shawver@mow.uscourts.gov and rhonda_enss@mow.uscourts.gov by Friday, June 6, 2014. To the extent there are disagreements to certain instructions, each attorney shall tab and submit his or her preference on those instructions. The instructions shall be listed in the order they are to be given.

There are no unusual questions of law.

XII. TRIAL SETTING

All counsel and the defendant were informed that this case will be listed for trial on the joint criminal jury trial docket which commences on June 9, 2014.

A Spanish-speaking interpreter is required.

/s/ Robert E. Larsen
ROBERT E. LARSEN
United States Magistrate Judge

Kansas City, Missouri
May 23, 2014